

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO DEVELOP, OWN, AND OPERATE DEDICATED POINT-TO-POINT LIMITED TRANSMISSION FACILITIES TO CONNECT THE SMC CONSOLIDATED POWER CORPORATION (SCPC) POWER PLANT IN BARANGAY LAMAO, LIMAY, BATAAN TO THE 230 KV LAMAO SUBSTATION OF THE NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP), WITH PRAYER FOR PROVISIONAL AUTHORITY

ERC CASE NO. 2016-015 MC

**SMC CONSOLIDATED POWER CORPORATION (SCPC),
Applicant.**

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D O C K E T E D
Date: JUN 07 2018
By: W

ORDER

Before this Commission for resolution is the *Motion for Leave to Admit Amended Application with Prayer for Provisional Authority* (Motion for Leave), which was filed by Applicant SMC Consolidated Power Corporation (SCPC) on 19 April 2018, with an attached *Amended Application with Prayer for Provisional Authority* (Amended Application), both dated 16 April 2018.

ANTECEDENTS

On 03 June 2016, an *Application* dated 12 May 2016 was filed by Applicant SCPC, seeking the Commission's approval for authority to develop, own, and operate dedicated point-to-point limited

transmission facilities to connect SCPC's 2 x 150 MW Power Plant in Barangay Lamao, Limay, Bataan to the 230 kV Lamao Substation of the National Grid Corporation of the Philippines (NGCP).

The Commission issued an *Order* with a *Notice of Public Hearing* both dated 19 July 2016, setting the case for jurisdictional hearing, expository presentation, pre-trial conference, and evidentiary hearing on 14 September 2016.

During the 14 September 2016 hearing, Applicant SCPC was able to show proof of its compliance with the publication and notice requirements of the Commission. Expository presentation, pre-trial conference, and evidentiary hearing were also concluded.

On 04 August 2017, SCPC filed its *Formal Offer of Evidence* (FOE).

On 14 August 2017, SCPC filed an *Ex Parte Manifestation and Motion (To effect minor amendments in the instant Application to conform to evidence)* dated 09 August 2017, as well as a *Supplemental FOE*. In the said *Manifestation and Motion*, Applicant prayed for the Commission to adopt the amendments in the application allegedly in conformity with the pieces of evidence already presented, and to authorize SCPC to develop, own, and operate a 4 x 150 MW point-to-point limited transmission facilities.

The Commission issued an *Order* dated 26 February 2018, denying the motion of SCPC to adopt the amendments in the application to conform to evidence under Section 3, Rule 7 of the ERC's Rules of Practice and Procedure (RPP). However, SCPC was allowed to amend the application on the basis of Section 1, Rule 7 of the RPP which will require republication of notice of hearing on the amended application.

Thus, SCPC filed the subject *Motion for Leave* with the *Amended Application* on 19 April 2018, pursuant to the Commission's *Order* dated 26 February 2018.

In the *Amended Application*, SCPC alleged the following:

The Applicant

1. SCPC is a corporation duly created and existing by and under the laws of the Republic of the Philippines, with business address at No. 40 San Miguel Avenue, Mandaluyong City 1550;
2. SCPC may be served with the orders, notices and other processes of the Honorable Commission through its undersigned counsel at the address indicated herein;

Nature of the Application

3. The Application for authority to develop, own, and operate dedicated point-to-point limited transmission facilities to connect SCPC's Power Plant in Barangay Lamao, Limay, Bataan to the 230 kV Lamao Substation of the National Grid Corporation of the Philippines ("NGCP") is being submitted to the Honorable Commission for its review and approval pursuant to Section 9(f) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA¹ and other pertinent rules and regulations;

Statement of Facts

4. SCPC is constructing a 4 x 150 MW Circulating Fluidized Bed Coal-Fired Thermal Power Plant (the "Power Plant") located in Barangay Lamao, Limay, Bataan, the Power Plant declared the start of its commercial operation to Wholesale Electricity Spot Market ("WESM") on 26 May 2017 and 26 September 2017 for its Unit 1 and Unit 2, respectively²;

5. SCPC conducted the testing and commissioning for Unit 1, Unit 2 and Unit 3 of the Power Plant and synchronized to the Luzon Grid on 9 November 2016, 23 May 2017, and 29 November 2017, respectively. The Unit 4 of the Power Plant will undergo testing and commissioning and is expected to be synchronized on 4 September 2018³;

¹ "Section 9. Functions and Responsibilities. x x x.

(f) x x x.

A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the TDP: Provided, that such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC: x x x."

² Old Provisions of Item No. 4, page two (2) of the SCPC Point to Point Application which read as - - - "SCPC is constructing a 2 x 150 MW Circulating Fluidized Bed Coal-Fired Thermal Power Plant (the "Power Plant") located at Barangay Lamao, Limay, Bataan, which is expected to be commercially operational by the 3rd quarter of calendar year 2016;"

³ Old Provisions of Item No. 5, page two (2) of the SCPC Point to Point Application which read as - - - "SCPC will be conducting the testing and commissioning of Unit 1 of the Power Plant and is expected to be synchronized to the Luzon Grid on 31 August 2016;"

6. To dispatch the power to be generated by the Power Plant, SCPC is, likewise, constructing a dedicated point-to-point limited transmission facilities to connect said Power Plant to the 230 kV Lamao Substation of the NGCP;

7. Department of Energy's ("DOE") issued the Certificate of Endorsement ("COE") for Phase 1 and Phase 2 the Power Plant and SCPC has already filed the Application for Certificate of Compliance ("COC") with the Honorable Commission⁴;

8. The Power Plant Project is consistent with NGCP's Transmission Development Plan ("TDP");

9. A System Impact Study ("SIS") was prepared by CEMA Consultancy Services, Incorporated for SCPC on the technical feasibility of connecting the 4 x 150 MW Power Plant Project to the NGCP's 230 kV Lamao Substation;

9.1 Based on said SIS, it is possible to integrate the Power Plant Project to the Luzon Grid without major degradation to the system;

10. Description of the Connection Facilities. The connection for the project involves construction of approximately 850-meter transmission line, upgrading of NGCP's BCCPP-B Substation and construction of new 230 kV substation at SCPC – Limay, Bataan. The project's power injection to the grid is via Bus-In connection to the existing 230 kV GN Power Transmission Line. SCPC will connect to the grid via the new Lamao Substation of NGCP. Included in this project are the HV connection, telecommunications and protection interconnection needed in both substations⁵;

10.1 Identified major components of the connection facility project are the following: approximately 100-meter 230 kV Transmission Line from SCPC's One Bay Breaker to the designated connection point in NGCP's New Lamao Substation, including steel poles, cables, OPGW, OHGW, insulators and accessories, Telecommunication and protection interface and SCADA interface; and⁶

⁴ Old Provisions of Item No. 7, page three (3) of the SCPC Point to Point Application which read as - - - "SCPC is awaiting for the Department of Energy's ("DOE") confirmation of its Declaration of Commerciality and subsequent issuance of a Certificate of Endorsement ("COE") in order to apply for a Certificate of Compliance ("COC") with the Honorable Commission;"

⁵ Old Provisions of Item No. 10, page three (3) of the SCPC Point to Point Application which read as - - - "Description of the Connection Facilities. The two (2) existing 230 kV-designed 1 x 795 MCM ACSR BTPP-BPC transmission lines on steel poles (located at both sides of the Roman Superhighway) will be both cut in between pole nos. 25 and 26. Line 1 is energized at 230 kV while line 2 is energized at 69 kV. The other four (4) line will be "bused-in" to the proposed NGCP Petron Substation, where SCPC's Power Plant will also be connected directly;"

⁶ Old Provisions of Item No. 10.1, page three (3) of the SCPC Point to Point Application which read as - - - "Of the four (4) lines that will go in the NGCP Petron Substation, only one (1) line will remain energized at 69 kV (Petron-BPC Transmission Line 2), which will be connected to a 50 MVA 230/69 kV power transformer and will be part of the supply of the proposed NGCP Petron Substation. The rest of the lines (BTPP-Petron Transmission Lines 1 and 2, and Petron-BPC Transmission Line 1) will be energized at 230 kV; and"

10.2 Even without upgrading any of the existing lines, said connection scheme will suffice for the first (1st) phase of the Power Plant Project (2 x 150 MW) as well as for the N-1 criterion; For the second (2nd) phase of the Power Plant Project (2 x 150 MW), System Integrated Protection Scheme ("SIPS") will be implemented.⁷

11. Project Cost. The cost of the dedicated point-to-point limited transmission facilities is PhP 85,305,298.75, broken down as follows:

Item	Amount, PhP
EPC of Interconnection Facility and Teleprotection Interface Between SMC AIS One Bay Breaker Substation and NGCP Lamao Switchyard/Substation	62,509,298.75
<u>Additional Works for Unit 3 and Unit 4, and NGCP Lamao Substation Interconnection Project⁸</u>	<u>20,000,000.00</u>
Supply, Installation, Testing and Commissioning for 230 kV Post Insulator including necessary Steel Structure Support and Cable Clamp of 230 kV AIS One Bay Breaker	2,796,000.00
Total	85,305,298.75

12. In support of the Amended Application, the following documents and/or information were already submitted as part of the Original Application and are attached thereto and made integral parts hereof:

Annex	Documents/Information
"A"	Description of the Project
"B"	Proof that the Project is Consistent with the Transmission Development Plan ("TDP")
"C"	System Impact Study ("SIS")
"D"	Facility Study
"E"	Conceptual Engineering Designs and Drawings
"F"	Project Cost Estimates
"G"	Gantt Chart Schedule
"H"	Connection Agreement
"I"	Secretary's Certificate executed by Atty. Irene M. Cipriano, Assistant Corporate Secretary of SCPC, on 3 May 2016 designating Ms. Elenita D. Go to sign and deliver contracts, agreements, instruments, documents and securities in behalf of SCPC.

⁷ Old Provisions of Item No. 10.2, page four (4) of the SCPC Point to Point Application which read as - - - "Even without upgrading any of the existing lines, said connection will suffice for the first (1st) phase of the Power Plant Project (2 x 150 MW) as well as N-1 criterion;"

⁸ Attached as Annex "T" and Annex "T-1" of the Amended Application are the "Bid Form from Hansei Corporation" and "Purchase Order from SCPC", respectively to prove the further cost for Additional Works for Unit 3 and Unit 4 and NGCP Lamao Substation Interconnection Project.

"I-1"	Secretary's Certificate executed by Atty. Irene M. Cipriano, Assistant Corporate Secretary of SCPC, on 3 May 2016 designating Atty. Jupiter M. Cabaguio and Atty. Avelino G. Cedo III to prosecute, defend, arbitrate and/or collect in behalf of SCPC which authority includes to amend the pleadings.
"J"	Environmental Certificate Compliance ("ECC") issued by the Department of Environment and Natural Resources ("DENR")
"K"	Articles of Incorporation
"L"	Certificate of Registration issued by the Securities and Exchange Commission ("SEC")
"M"	Latest General Information Sheet ("GIS")
"N"	Certificate of Registration No. 2013-194 issued by the Board of Investments ("BOI") for Phase 1 (2 x 150 MW) of SCPC
"O"	Latest Audited Financial Statements
"P"	Judicial Affidavit in support of the motion for provisional authority

13. In support of the instant Amended Application, the following documents and/or information are attached hereto as annexes and made integral parts hereof:

<u>Annex</u>	<u>Documents/Information</u>
<u>"Q"</u>	<u>Certificate of Registration No. 2016-188 with the BOI for Phase 2 (2 x 150 MW) of SCPC</u>
<u>"R"</u>	<u>Revised Description of the Project</u>
<u>"S"</u>	<u>Revised Gantt Chart</u>
<u>"T"</u>	<u>Bid Form from Hansei Corporation</u>
<u>"T-1"</u>	<u>Purchase Order from SCPC</u>
<u>"U"</u>	<u>Certificate of Endorsement issued by DOE for Phase 1 (2 x 150 MW) of SCPC</u>
<u>"U-1"</u>	<u>Certificate of Endorsement issued by DOE for Phase 2 (2 x 150 MW) of SCPC</u>
<u>"V"</u>	<u>Judicial Affidavit of Engr. Michael Valer G. Mariano in support of this Instant Amended Application</u>

Allegations in Support of the Motion for Provisional Authority

14. SCPC repleads the foregoing allegations in support of its prayer for the immediate issuance of provisional authority, anchored on the following grounds:

14.1 SCPC has filed before the Honorable Commission five (5) Joint Applications for approval of Power Supply Contracts (PSCs) it executed with the following Distribution Utilities ("DUs"): Ilocos Sur Electric Cooperative, Incorporated ("ISECO"), Tarlac I Electric Cooperative, Incorporated ("TARELCO I"), Tarlac II Electric Cooperative, Incorporated

(“TARELCO II”), Peninsula Electric Cooperative (“PENELCO”), and Pangasinan III Electric Cooperative (“PANELCO III”)⁹;

14.2 As previously stated, SCPC conducted the testing and commissioning for Unit 1, Unit 2 and Unit 3 of the Power Plant and synchronized to the Luzon Grid on 9 November 2016, 23 May 2017, and 29 November 2017, respectively. The Unit 4 of the Power Plant will undergo testing and commissioning and is expected to be synchronized on 4 September 2018¹⁰;

14.3 Article 5 (Pre-Commercial Operations) of SCPC’s PSCs with the foregoing DUs provide that the DUs (as the Buyers) agree to purchase the Net Electrical Output of the Power Plant delivered by SCPC (as the Seller) and billed to the DUs during the period of testing and commissioning, on a non-firm basis, subject to payment of Energy Fees and other charges under Article 9.3 thereof;

14.4 In order for SCPC to comply with its contractual obligations with said DUs, it is imperative that the Power Plant should be immediately connected to the 230 kV Lamao Substation of the NGCP. Thus, the development of dedicated point-to-point limited transmission facilities is a pre-requisite for the testing and commissioning, and eventually, the commercial operations of the Power Plant;

14.5 Further, said Power Plant is considered as a committed project, and is in the process of securing a certification from the DOE that the same is consistent with the Power Development Plan (“PDP”); and

14.6 It bears stressing that pursuant to Rule 14, Section 3 of the Honorable Commission’s Rules of Practice and Procedure, the Honorable Commission may issue a provisional authority pending approval of the Application, to wit:

“Section 3. Action on the Motion. – Motions for provisional authority or interim relief may be acted upon with or without hearing. The Commission shall act on the motion on the basis of the allegations of the application or petition and supporting documents and other evidences that applicant or petitioner has submitted and the comments or opposition filed by any interested person, if there be any.” (Emphasis provided)

15. To emphasize the necessity of the foregoing allegations, a judicial affidavit in support of the motion for provisional authority

⁹ Old Provisions of Item No. 13.1, page five (5) of the SCPC Point to Point Application which read as - - - “SCPC has filed before the Honorable Commission three (3) Joint Applications for approval of Power Supply Contracts (PSCs) it executed with the following Distribution Utilities (“DUs”): Ilocos Sur Electric Cooperative, Incorporated (“ISECO”), Tarlac I Electric Cooperative, Incorporated (“TARELCO I”), and Tarlac II Electric Cooperative, Incorporated (“TARELCO II”);”

¹⁰ Old Provisions of Item No. 13.2, page five (5) of the SCPC Point to Point Application which read as - - - “As previously stated, SCPC will be conducting the testing and commissioning of Unit 1 of the Power Plant and is expected to be synchronized to the Luzon Grid on 31 August 2016;”

*is attached to the original Application as Annex "P" and made an integral part thereof.*¹¹

PRAYER

WHEREFORE, the foregoing premises considered, Applicant SMC Consolidated Power Corporation ("SCPC") most respectfully prays that the Honorable Commission:

1. Pending hearing, ISSUE an Order provisionally approving the development, ownership, and operation of dedicated point-to-point limited transmission facilities to connect the SCPC Power Plant in Barangay Lamao, Limay, Bataan to the 230 kV Lamao Substation of the National Grid Corporation of the Philippines ("NGCP");

2. After due notice and hearing, ISSUE a Decision approving the Application and permanently authorizing the development, ownership, and operation of said dedicated point-to-point limited transmission facilities.

Other reliefs just and equitable under the premises are, likewise, prayed for.

Finding the *Motion for Leave* meritorious, the Commission hereby grants leave and admits the *Amended Application* attached therein.

ACCORDINGLY, the hearing on the *Amended Application* is hereby set on **18 June 2018 (Monday) at ten o' clock in the morning (10:00 A.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City**, for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence.

SCPC is hereby directed to:

- 1) Cause the publication of the attached *Notice of Public Hearing* once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, the date of the publication to be made not later than ten (10) days before the scheduled hearing;

¹¹ Old Provisions of Item No. 14, page six (6) of the SCPC Point to Point Application which read as - - - "To emphasize the necessity of the foregoing allegations, a judicial affidavit in support of the motion in provisional authority is attached to the Application as Annex "P" and made an integral part hereof."

- 2) Furnish with copies of this *Order* and the attached *Notice of Public Hearing* the Offices of the Provincial Governors, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the *Amended Application*, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected area, by any other means available and appropriate;
- 4) Furnish with copies of this *Order* and the attached *Notice of Public Hearing*, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire to send their duly authorized representatives at the scheduled hearing; and
- 5) Furnish with copies of the *Amended Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the hearing, Applicant must submit to the Commission its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached *Notice of Public Hearing* consisting of affidavit of the Editor or Business Manager of the newspaper where the said *Notice of Public Hearing* was published, and the complete issue of the said newspaper;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Public Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;

- 3) The evidence of other means employed by Applicant to inform of the filing of the *Amended Application*, its reasons therefore, and of the scheduled hearing thereon, the consumers within the affected area;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Public Hearing* by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Amended Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicant and all interested parties are also required to submit, at least five (5) days before the date of the hearing and Pre-Trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Failure of Applicant to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from the said date of cancellation.

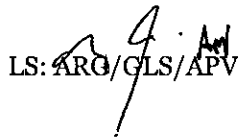
SCPC must also be prepared to make an expository presentation of the *Amended Application*, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the *Amended Application* is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 17 May 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner


LS: ARG/GLS/APV

Copy furnished:

1. **Atty. Jupiter M. Cabaguio and Atty. Avelino G. Cedo III**
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23rd Floor, San Miguel Properties Centre
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2. **SMC Consolidated Power Corporation (SCPC)**
No. 40 San Miguel Avenue, Mandaluyong City 1550
3. **Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village
Makati City, Metro Manila
4. **Commission on Audit**
Commonwealth Avenue
Quezon City, Metro Manila
5. **Senate Committee on Energy**
GSIS Building, Roxas Boulevard
Pasay City, Metro Manila
6. **House Committee on Energy**
Batasan Hills
Quezon City, Metro Manila
7. **President**
Philippine Chamber of Commerce and Industry (PCCI)
McKinley Hill, Fort Bonifacio
Taguig
8. **Office of the City Mayor**
Mandaluyong City
9. **Office of the Local Government Legislative Body**
Mandaluyong City
10. **Office of the Provincial Governor**
Province of Bataan
11. **Office of the Local Government Legislative Body**
Province of Bataan
12. **Office of the Municipal Mayor**
Limag, Bataan
13. **Office of the Local Government Legislative Body**
Limag, Bataan
14. **Office of the Barangay Chairman**
Brgy. Lamao, Limay, Bataan
15. **Office of the Local Government Legislative Body**
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16. Atty. Jamil V. Estorninos

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17. Mayor Lilvir B. Roque

Municipal Mayor, Limay, Bataan
Oppositor
Municipal Building, Townsite
Limay, Bataan

18. National Grid Corporation of the Philippines (NGCP)

Quezon Avenue corner BIR Road
Diliman, Quezon City

19. GNPowder Ltd. Co.

28th Floor, The Orient Square Building
Don Francisco Ortigas, Jr. Road
Ortigas Center, Pasig City

20. Regulatory Operations Service (ROS)

Energy Regulatory Commission, 17th Floor, Pacific Center Building
Pasig City